BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	)	
Fuad Farah Rafidi, M.D.	)	**Case No. 800-2015-014250**
Physician's and Surgeon's Certificate No. A 38061	)	
Respondent	)	

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on February 6, 2019.

IT IS SO ORDERED: January 7, 2019.

MEDICAL BOARD OF CALIFORNIA

Kristina Lawson, J.D., Chair
Panel B

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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **FUAD FARAH RAFIDI, M.D.** **18840 Venutra Blvd., Suite 100A** **Tarzana, CA 91356** **Physician's and Surgeon's Certificate No. A 38061,** Respondent.	Case No. 800-2015-014250 OAH No. 2018060643 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board of California (Board). She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Edward Kim, Deputy Attorney General.

2. Respondent Fuad Farah Rafidi, M.D. (Respondent) is represented in this proceeding by attorney Peter R. Osinoff, whose address is: 355 South Grand Avenue, Suite 1750, Los Angeles, California 90071.

3. On or about February 22, 1982, the Board issued Physician's and Surgeon's Certificate No. A 38061 to Fuad Farah Rafidi, M.D. (Respondent). The Physician's and

Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2015-014250, and will expire on August 31, 2019, unless renewed.

JURISDICTION

4. Accusation No. 800-2015-014250 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on April 10, 2018. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2015-014250 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2015-014250. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent admits to the truth of each and every charge and allegation in the Second, Fourth and Fifth Causes for Discipline of Accusation No. 800-2015-014250.

10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

11. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 38061 issued to Respondent FUAD FARAH RAFIDI, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for thirty-five (35) months on the following terms and conditions.

1. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to

the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

2. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

3. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment program approved in advance by the Board or its designee. Respondent shall successfully complete the program not later than six (6) months after Respondent's initial enrollment unless the Board or its designee agrees in writing to an extension of that time.

The program shall consist of a comprehensive assessment of Respondent's physical and mental health and the six general domains of clinical competence as defined by the Accreditation

Council on Graduate Medical Education and American Board of Medical Specialties pertaining to Respondent's current or intended area of practice. The program shall take into account data obtained from the pre-assessment, self-report forms and interview, and the Decision(s), Accusation(s), and any other information that the Board or its designee deems relevant. The program shall require Respondent's on-site participation for a minimum of three (3) and no more than five (5) days as determined by the program for the assessment and clinical education evaluation. Respondent shall pay all expenses associated with the clinical competence assessment program.

At the end of the evaluation, the program will submit a report to the Board or its designee which unequivocally states whether the Respondent has demonstrated the ability to practice safely and independently. Based on Respondent's performance on the clinical competence assessment, the program will advise the Board or its designee of its recommendation(s) for the scope and length of any additional educational or clinical training, evaluation or treatment for any medical condition or psychological condition, or anything else affecting Respondent's practice of medicine. Respondent shall comply with the program's recommendations.

Determination as to whether Respondent successfully completed the clinical competence assessment program is solely within the program's jurisdiction.

If Respondent fails to enroll, participate in, or successfully complete the clinical competence assessment program within the designated time period, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume the practice of medicine until enrollment or participation in the outstanding portions of the clinical competence assessment program have been completed. If the Respondent did not successfully complete the clinical competence assessment program, the Respondent shall not resume the practice of medicine until a final decision has been rendered on the accusation and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of the probationary time period.

4. MONITORING - PRACTICE/BILLING. Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a

practice monitor, the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision and Accusation, and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision, Accusation, and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision and Accusation, fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, Respondent's practice shall be monitored by the approved monitor, provided that this condition shall cease to be effective after one year from the effective date of this Decision, provided further that Respondent successfully participates in and completes the clinical competence assessment program in term and condition 3 above and there are no material issues with Respondent's medical practice or material violations of the terms and conditions of probation, during the first year of probation hereunder. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitor shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of medicine, and whether Respondent is practicing medicine safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

In lieu of a monitor, Respondent may participate in a professional enhancement program approved in advance by the Board or its designee that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation.

5. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

6. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES. During probation, Respondent is prohibited from supervising physician assistants and advanced practice nurses.

7. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

8. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

9. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Place of Practice

Respondent shall not engage in the practice of medicine in Respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal

Respondent shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

In the event Respondent should leave the State of California to reside or to practice, Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

10. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be available in person upon request for interviews either at Respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

11. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete the Federation of State Medical Boards's Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two (2) years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice for a Respondent residing outside of California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing.

12. COMPLETION OF PROBATION. Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

13. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

14. LICENSE SURRENDER. Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

15. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Peter R. Osinoff. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 11-6-2018

FUAD FARAH RAFIDI, M.D.
Respondent

I have read and fully discussed with Respondent FUAD FARAH RAFIDI, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 11/7/18

PETER R. OSINOFF
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

///

Dated: 11-8-18

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General

EDWARD KIM
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2015-014250

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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **FUAD FARAH RAFIDI, M.D.** **18840 Ventura Boulevard, Suite 100A,** **Tarzana, California 91356** **Physician's and Surgeon's** **Certificate No. A38061,** Respondent.	Case No. 800-2015-014250 **ACCUSATION**

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about February 22, 1982, the Medical Board issued Physician's and Surgeon's Certificate Number A38061 to Fuad Farah Rafidi, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2019, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

"(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"(d) Incompetence.

"(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

"(f) Any action or conduct which would have warranted the denial of a certificate.

"(g) The practice of medicine from this state into another state or country without meeting the legal requirements of that state or country for the practice of medicine. Section 2314 shall not apply to this subdivision. This subdivision shall become operative upon the implementation of the

proposed registration program described in Section 2052.5.

"(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board."

6. Section 2266 of the Code states: "The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

7. Respondent Fuad Farah Rafidi, M.D. is subject to disciplinary action under section 2234, subdivision (b), in that he committed gross negligence in his care and treatment of PATIENT 1.[1] The circumstances are as follows:

8. On or about May 23, 2012, PATIENT 1, a 65-year-old female, underwent a Bilateral Arterial Doppler study which reported, "Mild to moderate stenosis is seen involving the lower extremity arterial system." Her ABI[2] on the right was reported as 0.68. Images appeared to reveal stenosis on the mid-distal right superficial artery.

9. On or about June 18, 2012, Respondent saw patient, who had a history of tobacco use, but had ceased smoking about 15 years prior to the visit, with a complaint of leg cramps while walking. A note in the record for that day states that PATIENT 1 had "bilateral leg pain while walking." At this patient encounter, however, Respondent failed to adequately illicit information about and/or document PATIENT 1's health condition (i.e., her symptoms), e.g., the distance that she could walk, whether she experienced pain while walking and its level in lower legs or the extent of her disability, if any, whether pain was induced by sitting, standing, or walking, her lifestyle and whether her condition affected it, etc. Notwithstanding PATIENT 1's presentation, Respondent did not attempt to utilize non-interventional means to address

[1] The patients' names are anonymized to address privacy. The identity of the patients is known to the Respondent and will be further provided in response to a Request for Discovery.

[2] The ankle-brachial index (ABI) result is used to predict the severity of peripheral arterial disease (PAD).

PATIENT 1's condition, including,[3] her possible PAD, such as via medical management or a walking program.[4]

10. On or about July 18, 2012, Respondent performed a right lower extremity arteriogram on PATIENT 1.[5] This demonstrated a superficial femoral artery stenosis. Respondent treated this with an atherectomy, angioplasty and stenting. He reported that the posterior tibial artery was patent; the anterior tibial artery was occluded, and the peroneal artery had stenosis. He attempted to treat the arterial segment below the knee level (peroneal artery). His notes describes "two passes" of the "atherectomy device" followed by balloon dilation. The follow up arteriogram demonstrated an area of extravasation from the peroneal artery (indicating arterial perforation). A repeat injection was performed that demonstrated ongoing extravasation. Respondent's surgical report stated that "the posterior tibial artery was patent all the way to the ankle and the foot." While in recovery, the patient complained of increasing pain in the right calf (a nursing note documented "extreme pain" in the right leg calf). However, the patient was given Demerol and fentanyl and was eventually discharged.

11. On or about July 19, 2012 (post-procedure day 1), Respondent saw PATIENT 1, who complained about right leg pain. When Demerol was not effective, she was referred to West Hills Hospital for pain management. She was admitted due to her pain. The hospital record reported that:

> "[PATIENT 1] underwent angioplasty of the right lower extremity along with stent placement of the right mid femoral artery by Dr. Rafidi on an outpatient basis about 2 days ago. The patient reports that in the immediate postoperative period, she had excruciating pain involving the right calf region. She was subsequently sent home postprocedure, but continued to have the right calf pain. She also noticed that there was mild swelling and tightness of the right calf area. She describes the pain as crampy about 10/10 in intensity at its maximum with over 10/10 in intensity at maximum involving the right calf and the right

[3] As used herein, "including" means "including, without limitation."

[4] At his interview with the Board investigator, Respondent did not know whether non-invasive alternatives to angiograms were discussed with her primary physician.

[5] PATIENT 1 signed her consent to surgery on July 18, 2012, at 8:20 a.m. and the anesthesia commenced on that same date at 8:28 a.m.

foot area. She reports that the pain actually radiates from the ankle up the calf. It is aggravated by weightbearing and ambulation and she in fact has not been able to ambulate because of the pain."

She was treated with leg elevation and pain medications. She was weaned off of parenteral analgesics. An ultrasound on PATIENT 1 revealed a small right peroneal pseudoaneurysm. Respondent was consulted. The hospital records stated that Respondent "did not feel that [PATIENT 1] needed any intervention for this and felt that this presentation was common in some patients with angioplasty." A chart note during the hospital stay stated, "The patient's right calf pain is most probably related to the angioplasty and stent placement. However, I would like to rule out acute deep venous thrombosis." PATIENT 1 was subsequently discharged. [6]

12. On or about July 25, 2012, Respondent saw PATIENT 1 in his office, and recorded that PATIENT 1 had "bruising at the ankle" and that her "foot is warm." His assessment findings were "embolism and thrombosis of arteries of lower extremity."

13. On or about July 26, 2012, Respondent told PATIENT 1 to return to the Emergency Room after she had unbearable right lower extremity pain at home. The hospital admitted her and she was started on Dilaudid. She remained there until on or about August 7, 2012. She was again treated without an intervention. Thereafter, she had chronic pain, reflex sympathetic dystrophy and neuropathy.

14. On or about August 27, 2012, PATIENT 1 underwent an ultrasound at Respondent's office and the report indicated that there was "[n]o evidence of deep vein thrombosis" of the right lower extremity and that "the previously described hematoma of the right calf has completely resolved." In Respondent's chart for PATIENT 1, he wrote, "TZ VLE" (a non-standard undefined abbreviation) as the chief complaint. In addition, his records failed to include history of present illness. He also wrote, "Acute DVT noted in the prox to mid area of the peroneal vein." However, this was inconsistent with the ultrasound report. Moreover, there was no discussion of the significance of the peroneal vein or the management of pain.

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[6] At his interview with the Board, Respondent alleged that he had ruled out thrombosis and compartment syndrome.

15. On or about September 9, 2012, PATIENT 1 saw a neurologist (Dr. V.S.) for neurologic evaluation. The records for this visit stated that:

"[PATIENT 1] is a very pleasant 65 year old right handed woman referred for right leg pain. The patient was given a diagnosis of 'blocked artery' in her right leg on July 18th for which she underwent an angioplasty procedure. Before this procedure she stated that she would have some pain in her forelegs bilaterally with ambulation only. However when she woke up from this procedure on July 18th she noted a severe pain involving her right leg mainly in her foot going up to the knee. The procedure was done by [Respondent] and the patient reports that she was told that the artery had been torn and he was not able to go through the angioplasty because it was too difficult."

"...

"She was unable to bare any weight on her right foot and ended up being admitted at West Hills hospital on 2 separate admissions for pain control. She had tried taking over the counter medications at home with no relief but was hospitalized and was on various narcotics including morphine pumps for some relief. She has now been at home for the past 4 weeks and does take Oxycontin 10 mg 1/2 a pill twice a day, Norco 1/2 mg BID or TID, Paracetamol QHS and Robaxin 1/2 a pill 3 times a day. She was on much higher doses of these medications and has been slowly trying to decrease the doses on her own."

16. On or about October 4, 2012, PATIENT 1 saw another doctor (Dr. S.D.) who noted under "HPI" in the chart that the patient "[h]as had worsening claudication over the past 3 years" and that there might be an "apparent infra popliteal rupture??"

17. On or about October 16, 2012, PATIENT 1 underwent a CTA that demonstrated a dissection of the right common iliac artery and a "7 x 4 x 10 cm hematoma or thrombosed aneurysm from the level of the right popliteal artery trifurcation."

18. On or about October 22, 2012, PATIENT 1 underwent an arteriogram which revealed that the right common iliac artery had a dissection. A stent was placed at the right common iliac artery. The right anterior tibial and peroneal artery were occluded.

19. On or about November 7, 2012, PATIENT 1 was seen at Cedars-Sinai Medical

Center. She had pain in the right calf. A physical examination revealed in the right lower extremity, significant fullness and edema in the right popliteal fossa with cyanosis of the right foot. She has no palpable pedal pulses in the right foot.

20. On or about November 9, 2012, PATIENT 1 underwent incision and drainage of the right peroneal artery pseudoaneurysm.

21. On or about December 4, 2012, PATIENT 1 underwent a right lower extremity arteriogram. This demonstrated an occlusion of all the tibial vessels. Attempts to cross the occlusions were unsuccessful. She underwent sympathetic blocks for her pain syndrome, but the pain continued.

22. Prior to his intervention with this patient, on or about July 18, 2012, Respondent failed to offer the patient a trial of exercise. He also failed to adequately elicit the nature of PATIENT 1's symptoms, including, failing to ask her how far she could walk, what activities were affected or how it interfered with her lifestyle. He also failed to offer her a trial of medical management with pharmaceuticals such as cilostazol. Finally, he did not offer the patient the option of undergoing an open revascularization. When asked the question, "You would agree that an operation for claudication is always optional. Correct?" Respondent replied, "No. I don't agree."

23. On or about June 18, 2012 and thereafter, Respondent was grossly negligent when he failed to adequately address PATIENT 1's symptomology regarding her need for surgical revascularization (i.e., indications for the procedures he performed) and/or adequately document, his analysis of the patient as a surgical candidate, including, addressing with the patient, her available alternatives to address her vascular health needs.

24. On or about June 18, 2012, Respondent committed gross negligence when he treated PATIENT 1 with interventional vascular procedures (with concomitant risks), including, when he unnecessarily treated portions of her arteries, including, her peroneal artery (even though such treatment would not have materially improved her medical condition).

25. On or about June 18, 2012 and thereafter, Respondent should have recognized that PATIENT 1 could have had a vascular perforation when the patient developed pain after his

endovascular intervention. No imaging was performed to rule out a large hematoma or pseudoaneurysm. Additionally, options for treating a pseudoaneurysm without ligation of the peroneal artery could have been considered.

26. On or about June 18, 2012 and thereafter, Respondent's failure to adequately address and/or manage PATIENT 1's post-intervention complications, including, her pain in her treated leg and/or possible vessel injury represents gross negligence.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

27. Respondent Fuad Farah Rafidi, M.D. is subject to disciplinary action under section 2234, subdivision (c), in that Respondent committed repeated negligent acts in the care and treatment of PATIENT 1. The circumstances are as follows:

28. The allegations of the First Cause for Discipline are incorporated herein by reference as if fully set forth.

29. The acts and/or omissions by Respondent set forth in the First Cause for Discipline either individually or collectively or in any combination thereof, constitute repeated negligent acts.

THIRD CAUSE FOR DISCIPLINE

(Incompetence)

30. Respondent Fuad Farah Rafidi, M.D. is subject to disciplinary action under section 2234, subdivision (d), of the Code, in that Respondent was incompetent in connection with the care and treatment of a patient. The circumstances are as follows:

31. The allegations of the First and Second Causes for Discipline, inclusive, are incorporated herein by reference as if fully set forth.

32. Respondent's performance of his surgery on PATIENT 1 on or about July 18, 2012, represents incompetence.

33. Respondent's failure to provide justification for his attempt to treat PATIENT 1's arteries distal to the popliteal artery represents incompetence.

34. Respondent's failure to adequately recognize and address surgical complications in

PATIENT 1 represents incompetence.

35. Respondent's statement that "an operation for claudication is always optional" represents incompetence.

36. Respondent's discussion of stenosis and occlusions represents incompetence. For example, he stated during his deposition, "Totally occluded vessels are almost impossible to open." This is factually incorrect and represents a lack of knowledge. And, he used the terms interchangeably.

37. Respondent's documentation indicating that endovascular treatment is being utilized in an attempt to "slow down progression of disease" represents incompetence.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate Medical Records)

38. Respondent Fuad Farah Rafidi, M.D. is subject to disciplinary action under section 2266 of the Code in that Respondent failed to maintain adequate and accurate records related to the provision of medical services to a patient. The circumstances are as follows:

39. The allegations of the First, Second, and Third Causes for Discipline, inclusive, are incorporated herein by reference as if fully set forth.

FIFTH CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

40. Respondent Fuad Farah Rafidi, M.D. is subject to disciplinary action under section 2234, in that his action and/or actions represent unprofessional conduct, generally. The circumstances are as follows:

41. The allegations of the First, Second, Third and Fourth Causes for Discipline, inclusive, are incorporated herein by reference as if fully set forth.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A38061, issued to Fuad Farah Rafidi, M.D.;

2. Revoking, suspending or denying approval of Fuad Farah Rafidi, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Fuad Farah Rafidi, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED: April 10, 2018

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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